

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed October 15, 2009. At the time of the Final Office Action, Claims 10-18 were pending in this Application. Claims 10-18 were rejected. Claims 10-12, 14, 14-16, and 18 are hereby amended. Claims 1-9 were previously cancelled without prejudice or disclaimer. Applicant respectfully requests reconsideration and favorable action in this case.

Drawing

Applicant amended the current set of claims. Independent claims 10 and 16 are now including the steps as shown in figure 1 of the originally submitted specification more clearly. Support for the amendments can also be found for example in paragraphs [0018]-[0024] of the originally submitted specification. Thus, Applicant believes that all claimed elements are clearly shown in the drawing and no amendment to the drawing is necessary.

Rejections under 35 U.S.C. § 112

Claims 10-18 stand rejected by the Examiner under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Applicant amended the current set of claims. Independent claims 10 and 16 are now including the steps as shown in figure 1 of the originally submitted specification more clearly. Support for the amendments can also be found for example in paragraphs [0018]-[0024] of the originally submitted specification. Thus, no new matter has been introduced.

Rejections under 35 U.S.C. §103

Claims 10-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,832,429 issued to Michele B. Gammel et al. ("Gammel"), in view of U.S. Patent 5,852,801 issued to Hsiao-Wuen Hon et al. ("Hon") and further in view of U.S Patent No. 6,587,824 issued to Charles Allen Everhart et al. ("Everhart"). Applicant respectfully traverses and submits the cited art combinations, even if proper, which Applicant does not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on *ex post* reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

As stated above, the amended independent claims now include the limitation:

a) recording a voice utterance of a user and generating a first voice pattern;

b) comparing the first voice pattern with voice patterns previously stored in a database;

upon non-recognition of the first voice pattern;

c) providing the user with an option to assign the voice utterance to a new command, wherein a method for assigning the voice utterance to a new command comprises the steps of:

d) recording another voice utterance and generating a second voice pattern;

e) comparing said second voice pattern with said first voice pattern; and

f) if the comparison shows a predefined degree of similarity then combining the first and second voice pattern and assigning a new

command to the combined voice pattern and storing the combined voice pattern in said database, and otherwise repeating steps d) to f).

Gammel neither discloses nor suggests these limitations. In particular, *Gammel* fails to disclose to record a voice utterance and to perform any step upon a non-recognition. Even though *Hon* discloses a add-on lexicon procedure, *Hon* does not disclose the specific procedure of using the one recording and the other recording and their associated first and second patterns as claimed. *Hon* merely discloses an assignment procedure in which a top 1 word and a list of N-best matches are presented to a user which then can select one of these as the desired word. However, *Hon* fails to disclose the specific mechanism of combining the first and second pattern as claimed. Hence, Applicant believes that all independent claims are now allowable in view of the cited prior art.

Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

CONCLUSION

Applicant has now made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicant respectfully requests reconsideration of the pending claims.

Applicant submits a Request for Continued Examination. The Commissioner is authorized to charge the fee of \$810.00 required to Deposit Account 50-4871 of King & Spalding LLP in order to effectuate this filing.

Applicant believes no other fees are due; however, should the Commissioner deem that any additional fees are due, including any fees for any additional extensions of time, the Commissioner is hereby authorized to debit said fees from deposit account number 50-4871.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.457.2000.

Respectfully submitted,
KING & SPALDING LLP
Attorney for Applicant



Andrea H. Grubert
Reg. No. 59,143

Date: November 25, 2002

SEND CORRESPONDENCE TO:
King & Spalding LLP
CUSTOMER ACCOUNT NO. **86528**
512.457.2000
512.457.2100 (fax)